

State of Louisiana

Office of Alcohol and Tobacco Control

JOHN BEL EDWARDS
GOVERNOR



ERNEST P. LEGIER, JR.
COMMISSIONER

October 2, 2020

Greetings,

Recently, the Louisiana Office of Alcohol and Tobacco Control ("ATC") received numerous inquiries as to whether breweries can be granted additional retail opportunities or granted a conditional restaurant permit. Upon review, the agency determined that granting either request would violate the three tier system under Louisiana law.

Louisiana's alcohol industry operates under a three tier system. This system is designed to stabilize the industry and prevent unlawful and unfair inducements or business practices (monopolies). It is also intended to promote and maintain a fair and level playing field. The structure of the three tier system is broken down into retail dealers, wholesalers, and manufacturers (breweries). According to Louisiana law, a brewery's primary function is to manufacture its alcoholic beverages. The manufacturer may then sell the product to a wholesaler which distributes and sells to retail dealers. Each tier is responsible for a specific chain in the alcohol distribution process. Accordingly, La. R.S. 26:85 states in part that no person or business may at the same time, engage in business as an alcohol retailer, wholesaler and/or manufacturer or any combination thereof.

Nevertheless, Louisiana law provides a limited exception to breweries to allow operation of a taproom and to offer for sale its products direct to consumers for personal consumption onsite. Thus, the taproom operates in a way similar to a bar as its primary commodity and function is to sell alcoholic beverages on tap to patrons for consumption in a retail setting. It should be noted that the sales of the brewery's products in the taproom are classified as retail sales although the taproom is NOT separately permitted as a bar or restaurant.

Considering the above, a brewery does not meet the requirements to be eligible for a conditional restaurant permit. La. R.S. 26:271.2¹ explicitly requires that an applicant for a restaurant conditional permit must first hold a Class A-General (AG) retail permit (A brewery holds a manufacturer permit). A conditional restaurant permit is a retail permit and thus granting such a permit to a manufacturer or brewery would be in direct violation of the three tier system, tied house rules as well as La. R.S. 26:85.

For the above reasons, it is the agency's position that granting additional retail opportunities or granting a conditional restaurant retail permit to a brewery is impermissible under the law. Additionally, the proposed actions would violate the three tier system and pose a competitive risk to the other tiers within the alcohol industry.

Sincerely,



Commissioner
Office of Alcohol and Tobacco Control

¹Any retail establishment holding a Class A-General permit issued pursuant to this Section may be issued a Class-A-Restaurant-Conditional permit provided it meets the requirements of R.S. 26:73(C)(1)(a), (b), (c), and (d) during the hours from 7:00 a.m. until 11:00 p.m. each day of operation.
<https://legis.la.gov/Legis/Law.aspx?d=84671>